

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN RICK RIPLEY**, on January 28, 2005 at
8:00 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Rick Ripley, Chairman (R)
Sen. Ken (Kim) Hansen, Vice Chairman (D)
Sen. Gregory D. Barkus (R)
Sen. Bob Hawks (D)
Rep. John L. Musgrove (D)

Members Excused: Rep. Rosalie (Rosie) Buzzas (D)

Members Absent: Rep. Walter McNutt (R)

Staff Present: Britt Nelson, Committee Secretary
Doug Schmitz, OBPP Representative
Barbara Smith, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: HB 2

**EXECUTIVE ACTION: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION**

Barbara Smith discussed the handouts which she had provided to the Committee; a memo and the St. Mary's Decision Packages (DP), DP 2327 and DP 2414.

EXHIBIT(jnh22a01)

EXHIBIT(jnh22a02)

Doug Schmitz informed the Committee that two full-time equivalents (FTE) for the St. Mary's Project would be backed by the Governor. He indicated that the funding should remain Revolving Indemnity Trust monies since there was no available General Fund. He suggested that reprioritization was needed to find the funding.

Ms. Smith noted that DP 2327 should be reopened since the engineering costs had been reduced.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4}

Motion: REP. MUSGROVE moved that DP 2327 BE ADOPTED AS AMENDED.

Discussion:

Ms. Smith expressed that she assumed the position would still be funded from Reclamation and Development dollars.

SEN. BARKUS asked if the money would be put in the base.

Doug Schmitz responded that it would be put in the base unless it was one-time-only (OTO).

SEN. BARKUS asked how long the project would be conducted.

John Tubbs, Chief of the Resource Development Bureau of the Department of Natural Resources and Conservation, explained that they expected the project to last for at least ten years.

Mary Sexton, Director of the DNRC, informed the Committee that the Department did not know when the federal funding would arrive. She explained that there had to be a match of the federal funds, however, once they did arrive they might be able to use federal funding to cover the position. She also wanted to add that both the engineer and the hydrologist position were the Department's number two position of priority.

{Tape: 1; Side: A; Approx. Time Counter: 4 - 7.7}

SEN. HAWKS asked if the motion tied the two positions together.

CHAIRMAN RIPLEY clarified that the motion was to accept DP 2327 which was for the engineer only.

Ms. Smith addressed the funding issue, suggesting that they attach language which would direct the Department to replace the RIT monies if federal funding became available. She expressed that it did not guarantee federal dollars but it addressed the Committee's concerns with the RIT funds.

{Tape: 1; Side: A; Approx. Time Counter: 7.7 - 9.4}

SEN. BARKUS wondered why there was a discrepancy in the salaries between DNRC and the Department of Environmental Quality.

Ms. Smith clarified that both DEQ and DNRC are on Pay Plan 20. However, when they negotiated the move to the pay plan they also negotiated at what point they would start a new employee. DNRC starts positions at 85% of market value and the DEQ starts employees at 80% of market.

{Tape: 1; Side: A; Approx. Time Counter: 9.4 - 11.1}

Vote: Motion carried 6-0 by voice vote with REP. MUSGROVE voting for REP. BUZZAS by proxy.

Motion: SEN. HANSEN moved that DP 2414 BE ADOPTED AS AMENDED.

Discussion:

CHAIRMAN RIPLEY noted that DNRC was still above what DEQ would pay for a level seven hydrologist.

Ms. Smith indicated that the number CHAIRMAN RIPLEY had been referencing was a biennial amount and in fact DNRC was close to the amount DEQ would pay, \$52,500 per year of the biennium.

Vote: Motion carried 6-0 by voice vote, with REP. MUSGROVE voting for REP. BUZZAS by proxy.

Motion/Vote: SEN. HANSEN moved that CLOSE THE DEPARTMENT NATURAL RESOURCES AND CONSERVATION. Motion carried 6-0 by voice vote with REP. MUSGROVE voting for REP. BUZZAS by proxy.

{Tape: 1; Side: A; Approx. Time Counter: 11.1 - 22.6}

EXECUTIVE ACTION ON THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Ms. Smith referred to information she had been provided regarding Reliance Refinery. She indicated that she had provided that information to the Committee previously.

SEN. BARKUS wondered why there was no reference in the language to SB 143 on a contingency basis.

Ms. Smith explained that it was language suggested by the Department.

Sandi Olsen, Administrator of the Remediation Division of the DEQ, addressed **SEN. BARKUS'** question. She explained that had they thought that the DP itself had made contingency references to SB 143.

SEN. BARKUS noted, for clarification, that if SB 143 passed, the \$2 million would be taken from the Orphan Share Account.

Ms. Olsen asserted that it was her understanding that if the Committee chose not to use General Funds then the money would come out of the Orphan Share.

SEN. BARKUS followed up by asking, "If the motion to approve the DP passed and SB 143 passes then the money would come out of General Fund no matter what. If the motion did not pass and SB 143 did pass then the appropriation would come out of Orphan Share."

Ms. Smith informed the Committee that if DP 4014 passed as written there would be coordinating language with SB 143 so as written money would be taken out of the General Fund. She mentioned that if SB 143 failed, money would continue to come out of the Orphan Share. If SB 143 passed, then there needed to be coordinating language that would replace the General Fund with State Special Fund. She expressed the need to place language in the package that would designated where the money would come from dependent on the status of SB 143.

Mr. Schmitz added that SB 143 did not contain an appropriation. He noted that it was only making the funds available. He explained that if the Committee did not pass the DP, then the \$2 million would have to be appropriated further down the road.

Ms. Olsen noted that SB 143 had gone through Executive Action on the 27th and had passed 7-4.

CHAIRMAN RIPLEY reiterated where the funding would come from if the DP was passed as written.

{Tape: 1; Side: A; Approx. Time Counter: 22.6 - 33.7}

SEN. HAWKS asked if the DP was in the Governor's Budget.

Ms. Smith affirmed this assumption stating that it was a Governor's initiative.

Tom Livers, Deputy Director of the Director's Office of the DNRC, clarified that depending on how they chose the structure of the motion determined how the position would be funded. He expressed that it was dependent on the Committee's preference.

REP. MUSGROVE expressed concern about using general fund for the DP and suggested a motion that would include the language but without the General Fund appropriation.

Ms. Smith inserted that the Committee could amend the DP to take General Fund completely out and direct it to come directly from Orphan Share. She noted that at that point the contingency on SB 143 would go away.

{Tape: 1; Side: A; Approx. Time Counter: 33.7 - 37.3}

REP. MUSGROVE expressed a desire for coordination between DP 4014 and SB 143.

Motion: **REP. MUSGROVE** moved that DP 4014 BE ADOPTED AS AMENDED to contain language for funding coordinating with SB 143.

Discussion:

Ms. Smith asked for a clarification. She wanted to know if REP. MUSGROVE wanted just the coordinating language with SB 143 or if he also was requesting restrictions.

EXHIBIT(jnh22a03)

REP. MUSGROVE affirmed that he wanted both the coordinating language and the restrictions.

SEN. BARKUS inquired if the DP passed and \$2 million is spent on the project, would the DEQ be billing the landowners for that \$2 million.

Ms. Olsen denied that they would. She explained that it would become part of the State's financial contribution to their portion of the cost.

SEN. BARKUS clarified that the DNRC would be credited the \$2 million for the cleanup on their property.

Ms. Olsen agreed with **SEN. BARKUS**. She expressed that it was their intent that the bill would have no effect on any parties financial obligations, it would neither increase nor decrease the State's obligations.

SEN. BARKUS indicated that what **Ms. Olsen** had said was not clear. He attested that she had said two things; one the liability for any party would not be decreased and two that the DNRC would be credited the \$2 million.

{Tape: 1; Side: A; Approx. Time Counter: 37.3 - 42.7}

Ms. Olsen agreed that she had said both. She clarified that if the State funded the \$2 million it would be part of the State's obligation.

SEN. BARKUS tried to place the situation into context.

Ms. Olsen agreed that the \$2 million would come off of the State's contribution to the cleanup.

REP. MUSGROVE asked **Ms. Smith** to state the motion as it would go forth if it passed.

{Tape: 1; Side: A; Approx. Time Counter: 42.7 - 47.2}

Ms. Smith stated that the motion of the table for DP 4014 was to utilize the suggested language provided to the Department and add coordinating language with SB 143 so if SB 143 passed the funding source would become the Orphan Share.

REP. MUSGROVE pointed out that the \$2 million was not mentioned anywhere within that motion.

CHAIRMAN RIPLEY explained that if SB 143 failed, the funding would be out of the General Fund.

REP. MUSGROVE expressed that it had not been his intent to have the funding be taken from the General Funds. He had wanted to make DP 4014 contingent on SB 143 with all money coming from Orphan Share Account, completely stripping the \$2 million out of the General Fund.

{Tape: 1; Side: A; Approx. Time Counter: 47.2 - 49.9}

CHAIRMAN RIPLEY asked for clarification. He questioned whether there would be no funding for DP 4014 if SB 143 were to fail.

Ms. Smith answered that there would not be any funding should SB 143 fail.

Mr. Schmitz added that this would be true unless it was amended further through the process.

CHAIRMAN RIPLEY agreed but stated that the motion said that the funding would come out of SB 143 or else there would be no funding.

Ms. Smith clarified that they would not see the DP on a General Fund balance sheet because based upon the coordinating language, it would enter the system as Orphan Share.

Gary Hamel, Budget Manager of the DEQ, expressed that if **REP. MUSGROVE** and the Committee so chose, they could substitute the General Fund appropriation with a State Special Fund appropriation which would contain the coordinating language. He explained that if SB 143 failed, the \$2 million Orphan Share would come out of the budget and if it passed, it would remain. There would be no need to amend HB 2 to put the funding in because it would already be in place. The other situation he mentioned was leaving the DP as written, allowing the General Fund to pick up a portion of the \$2 million.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.6 Comments: At 8:35 A.M. REP. MCNUTT arrived.}

CHAIRMAN RIPLEY asked **Ms. Olsen** to explain the suggested language included in item number four of Exhibit 4. He wanted to know if this item meant that the landowners would be billed for the study.

Ms. Olsen agreed that she had said no parties would be billed for the study. She noted that there was language in SB 143 that would direct the \$2 million to be credited to the State share of

the total project cost. She explained that point number four was there to reassure the Committee that they fully intended to work with all of the potentially liable persons while taking the main share of the contracting.

{Tape: 1; Side: B; Approx. Time Counter: 3.6 - 5.4}

SEN. BARKUS charged that Ms. Olsen was saying on one hand that the parties would not be billed but on the other hand she was saying that once they start the cleanup the \$2 million would be credited to the State's share. He assumed that the study for \$2 million, credited to the State, would indirectly bill the other liable parties because that \$2 million would need to be covered during the cleanup.

Ms. Olsen explained that by going into the project they had fixed liability. She indicated that the State had a fixed amount of the liability so no matter how much the total project would cost they would not have to exceed that amount.

SEN. BARKUS asserted that Ms. Olsen had been saying all along that the State would be credited with the \$2 million.

Ms. Olsen expressed that what she had just discussed was what she had meant by credited; at the beginning of the project they had fixed their liability and when it was finished they would not have paid more or less of what the State, as a liable party, had owed. The intent she mentioned was that the funding going into the project at this point would not have an affect on the revenue at the end.

{Tape: 1; Side: B; Approx. Time Counter: 5.4 - 9.2}

SEN. HAWKS interpreted this to mean that the role the State was going to play at the beginning of the process was part of the cleanup cost.

Ms. Olsen agreed with his interpretation.

SEN. HAWKS further assumed that the costs for each liable party were being lumped together.

Ms. Olsen also agreed with this assumption.

CHAIRMAN RIPLEY indicated that under the scenario presented the State would have to come up with another \$8 million.

Ms. Olsen affirmed that at some point during the process additional funding would be needed. There have been no plans with DNRC about where or how that might occur but she agreed that it would have to happen eventually.

CHAIRMAN RIPLEY asked how the State would be any further ahead than they were at this point in time.

Ms Olsen explained that the Department would know what kind of cleanup plan would be successful at the site.

{Tape: 1; Side: B; Approx. Time Counter: 9.2 - 10.6}

CHAIRMAN RIPLEY asked if that information was contained in the study that had already been conducted.

Ms. Olsen informed the Committee that the work that had been done would role into the new study, the new study would fill data gaps, identify risk from the exposure to contaminations that exist, then look at different cleanup options and evaluate the costs associated with each option. She handed out a sheet containing the information of what would be done with the \$2 million.

EXHIBIT (jnh22a04)

{Tape: 1; Side: B; Approx. Time Counter: 10.6 - 12.3}

SEN. HAWKS addressed REP. MUSGROVE. He asked if it would make more sense to REP. MUSGROVE to follow Mr. Hamel's suggestion and use State Special Funds.

REP. MUSGROVE expressed that it did and he would make a motion to take out the reference to General Fund and add in the Orphan Share Account in the DP.

Substitute Motion: REP. MUSGROVE made a substitute motion that DP 4014 BE ADOPTED AS AMENDED to strike General Funds and include Orphan Share Funds.

Discussion:

SEN. BARKUS wanted to know if by using Orphan Share Funds they were admitting that the properties were abandoned with the ownership unknown or dissolved and had no where else to get the funding.

Mr. Livers agreed with SEN. BARKUS' interpretation.

SEN. BARKUS continued stating that the State of Montana, Schwank Enterprises and Burlington Northern were all still in business.

Mr. Livers agreed and explained that they had made a decision where they had an account that had money available for a related purpose, though not the strict original intent, to fund the project.

CHAIRMAN RIPLEY remarked that they might be setting a new policy regarding the Orphan Share Account.

{Tape: 1; Side: B; Approx. Time Counter: 12.3 - 16.1}

REP. MUSGROVE proposed that down to the true sense of it there was no such thing as an 'orphan' land because there will always be ownership whether governmental or private. He remarked that by definition the project would not contain orphan land but it was an appropriate use of the funds because many of the parties are no longer available for liability.

CHAIRMAN RIPLEY requested that Mr. Livers give the Committee an example of where the Orphan Share Account had been used in the past.

Mr. Livers reported that in the last session there was a bill which transferred the money from Orphan Share into a few RIT based accounts because there was not much cash flow into those accounts. He pointed out that historically the Legislature has chosen to use the Orphan Share Account for other purposes than its original use.

{Tape: 1; Side: B; Approx. Time Counter: 16.1 - 18.5}

Mr. Livers continued, noting that on the issue of crediting and the policy decision to be made with it he was not aware of any legal problems that would preclude either option. He expressed that there were two options: 1) the \$2 million would be credited entirely to the State because the State has a share and it needs to be met, or 2) the money could be appropriated among the various parties.

SEN. BARKUS remarked that the money belonged to the tax payers and the other potentially liable parties are all tax payers so the money should be spread out evenly among all the landowners rather than having it go just to DNRC.

{Tape: 1; Side: B; Approx. Time Counter: 18.5 - 20.7}

Substitute Motion: SEN. BARKUS made a substitute motion that DP 4014 BE ADOPTED AS AMENDED to include language to ensure property owners would not be billed for the study.

Discussion:

SEN. HAWKS asked if SEN. BARKUS was suggesting that the study would not be included in the overall cost of the cleanup.

SEN. BARKUS agreed with this interpretation.

SEN. HAWKS followed up by asking if it was SEN. BARKUS' feeling that the study and the initiation of the cleanup was in fact not a part of the costs.

SEN. BARKUS felt that the landowners had all been billed for previous studies. He asserted that every time the Department spent money on the site they sent a bill and he felt that they hadn't even ascertained that there was a problem yet. He felt that until they knew what the problem was and the extent of it there should be no liability. He thought that the State should be responsible until they figured out what the problem was.

{Tape: 1; Side: B; Approx. Time Counter: 20.7 - 24.2}

SEN. HAWKS reiterated that the people had been assessed the costs of the studies but he wanted to know if those costs had been paid.

Sandi Olsen related that the costs had not been paid. She expressed that it would have to work out payments through the processes surrounding Super Fund regulations for collection of those funds. Their view of the \$2 million was that it would not show up on a bill to any of the liable parties rather it would be credited to what DNRC would ultimately owe for the project.

CHAIRMAN RIPLEY asked if the first study was paid through the grant.

Ms. Olsen answered that the original study had been done by DNRC and was paid by a combination of funds. She noted that some of the responsible parties conducted their own study and that information was rolled into the DNRC's report.

{Tape: 1; Side: B; Approx. Time Counter: 24.2 - 26.9}

SEN. HAWKS commented regarding the liability of funding with the costs of this study and previous studies. It seemed that the

liability was fairly spread out among the parties. He agreed with SEN. BARKUS that the costs should be part of the package as part of the cost paid.

CHAIRMAN RIPLEY wanted to know how many members of the Committee had read the previous report. Seeing as SEN. BARKUS was the only Committee member who had read the report, he wanted SEN. BARKUS or the Department to convince him that there needed to be another study at all.

Ms. Olsen responded that each property owner had studied their individual section of the site. However, contamination was commingled across the properties and into adjacent properties off site. She noted that no one had looked at the off site component.

CHAIRMAN RIPLEY interpreted this to mean that the \$2 million would be used to study contamination that was off site.

Ms. Olsen answered that it would be used to fill individual data gaps on the site as well as off site contamination. One of the key concerns she mentioned was the groundwater migration and its impacts. They also wanted to find a way to keep from having further off site contamination.

CHAIRMAN RIPLEY wanted to know what had led them to believe that there was a problem that couldn't be addressed by the previous studies.

Ms. Olsen replied that they had samples of contamination along the river and they had been contacted by other landowners. Without collecting additional data to fill in the gaps they would not be able to prove the contamination.

REP. MUSGROVE wanted to know how many acres were involved with the study.

Ms. Olsen was unable to answer but promised to get back to the Committee with the amount. She referenced a map contained in the previous study which SEN. BARKUS had and passed around the Committee.

CHAIRMAN RIPLEY asked if there was litigation pending the source of the pollution.

{Tape: 1; Side: B; Approx. Time Counter: 26.9 - 33.7}

Ms. Olsen answered that there was litigation pending for collection of past costs.

Barbara Smith provided a handout of the bill and a copy of the fiscal note.

[EXHIBIT\(jnh22a05\)](#)

[EXHIBIT\(jnh22a06\)](#)

Ms. Olsen added that the map which had been passed around the Committee showed the three main properties included in the study but did not show the extent of the contamination.

SEN. BARKUS commented that he had contacted Schwank Enterprises regarding the discharge of hazardous or deleterious substances that may have occurred on their property. He reported that what had been stored there was barrels of foundation seal which was not hazardous or deleterious.

{Tape: 1; Side: B; Approx. Time Counter: 33.7 - 39.5}

CHAIRMAN RIPLEY reiterated that **SEN. BARKUS'** request was that landowners not be billed directly or indirectly and **REP. MUSGROVE** had included all of the suggested language and corresponding language with SB 143. He asked if it was acceptable language to the rest of the Committee.

REP. MUSGROVE noted that with the amendments being added to SB 143 it was possible that neither situation would be appropriate.

Ms. Smith explained that she had recorded that the language making the DP contingent on SB 143 was stricken and instead the General Fund would be replaced with Orphan Share in the originally package before the Committee.

REP. MUSGROVE asked if this included **SEN. BARKUS'** amendment as well.

Ms. Smith agreed but clarified that what **SEN. BARKUS** had asked for was that no property owner would be billed directly or indirectly for the \$2 million.

REP. MUSGROVE asked **SEN. BARKUS** if it meant that the \$2 million could not be used as part of the cost of the cleanup even if it was put towards the Department's portion of the liability.

{Tape: 1; Side: B; Approx. Time Counter: 39.5 - 44.5}

SEN. BARKUS asserted that REP. MUSGROVE'S assumption had been the reason why he had added indirectly.

SEN. HAWKS wanted clarification on the question about commingling of tax payer revenues.

SEN. BARKUS replied that none of the property owners had contaminated the soil and the arguments about their knowing that it was contaminated when they bought it was unfounded. It was his feeling that if the Department wanted to study the site they should pay for it and not charge it to the landowners.

SEN. HAWKS followed up by asking if SEN. BARKUS was suggesting that none of the \$2 million would be credited to the State at all.

SEN. BARKUS expressed that if the cost of the cleanup was \$50 million and the State had a 50% share their \$25 million for the cleanup would not be deducted by the \$2 million for the study.

CHAIRMAN RIPLEY noted that it was covered in point five of the suggested language.

Ms. Smith commented that SEN. BARKUS' amendment would be an attempt to override amendments initiated on HB 143. She remarked that it would be up to the Legal Department to decide which amendment would prevail.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.4}

Ms. Smith suggested that there had been one clear issue throughout the debate; that if SB 143 went through and there was a need for an appropriation there are points throughout the process that could be made. So instead of trying to figure out language that would conflict with the SB 143 language they could pass the DP as is and change it further down the road. She also offered the possibility of delaying the action on this DP and she would make arrangements to have the legal staff take a look at the bill and the DP with their respective language.

REP. MUSGROVE withdrew his motion from the table without objection.

SEN. BARKUS asked to have Ms. Olsen answer some further questions. He remarked that Ms. Olsen had indicated that the previous studies had only covered portions of the property yet he believed that the study he had was all encompassing.

Ms. Olsen replied that the study SEN. BARKUS had, took the individual studies and compiled them together but was not able to gather all data because of access issues with property owners. She claimed that the study had identified the data gaps which the Department still needed to study.

SEN. BARKUS wanted to know why the Department felt that the study's proposed remedies were insufficient.

Sandi Olsen explained that the Department felt that the proposed remedies were insufficient because they would have to be redone at some future point to achieve comprehensive data. She stated that the remedy proposed in the plan was an interim action to cover the contamination not to clean it up.

{Tape: 2; Side: A; Approx. Time Counter: 0.4 - 6.3}

CHAIRMAN RIPLEY asked to revisit DP 5011 -- Air Permitting of Oil and Gas Production. He cited the part which stated 'under current law', he felt that the section fell under the regulation of the Board of Oil and Gas. He wanted to know what had changed in the last few years since the Clean Air Act which would make DP 5011 necessary.

Tom Livers answered that air permitting was an issue that had arisen across the west where there is oil and gas drilling. He noted that it was driven by the EPA and had only recently come to their attention that there are potential emissions associated with oil and gas drilling. He expressed his feelings that Steve Welch would be better equipped to handle the question.

CHAIRMAN RIPLEY acknowledged that Mr. Livers was not the head of the Permitting Division and was not best suited to answer the question. However, he expressed his concern that they might be heading in the same direction as the permitting of feedlots. He indicated that while the EPA had given the Department the authority there were no rules as to how the process would be controlled.

Mr. Livers replied that the Department did not intend to take on a major regulatory rule. He indicated that they were concerned with the number of oil and gas wells that they have to find an efficient way to deal with if they were found to be something that they would have to regulate. They want to be able to take care of the situation in an efficient manner.

CHAIRMAN RIPLEY reiterated that no one knows how big the issue would be with the number of wells fluctuating between 400 and 900.

Mr. Livers stated that it was in the Department's best interest to take care of the process efficiently. He reiterated that they were not interested in taking on a limitless regulatory responsibility. He noted that one of the problems with oil and gas well permitting was that it is only after the wells have been drilled are they able to determine if the emissions would be acceptable.

{Tape: 2; Side: A; Approx. Time Counter: 6.3 - 13.2}

Ms. Smith added that the Committee still had the ability to add language to the DP requiring reports on the process including the number of wells permitted and the number of wells that would be affected. She also suggested that they had the option to restrict the appropriation if they do not have the industry re-examine the full-time equivalents.

SEN. HAWKS asserted that there was a bill by SEN. ROUSH which delayed the permitting process until the drilling operation was up and running and then the Department would be allowed to follow through on checking the emissions.

Mr. Livers cited that SB 95 addressed some of the permitting problems.

SEN. HAWKS announced that the bill had passed the Senate.

REP. MCNUTT explained the bill's intent. He agreed that language would be appropriate to keep track of the progress.

CHAIRMAN RIPLEY expressed his agreement with this proposal.

Ms. Smith suggested that the language address how often they wanted the update; who they wanted the update provided to; what costs were expended; and the number of permits that had been allowed.

REP. MCNUTT responded that the Environmental Quality Council would be the place to send the reports on at least an annual basis concerning the number of permits with an impact report.

SEN. HAWKS asked if the requirements provided by the EPA were definitive.

Mr. Livers could not answer SEN. HAWKS' question.

REP. MCNUTT required Mr. Livers to get the information.

{Tape: 2; Side: A; Approx. Time Counter: 13.2 - 19.8}

CHAIRMAN RIPLEY expressed that he had heard that it was only region eight which had experienced a major impact and was being pushed to permit these operations.

Ms. Smith indicated that there needed to be a motion regarding the language on DP 5011.

Motion/Vote: **REP. MCNUTT** moved that DP 5011 BE AMENDED to include language requiring an annual report to be given to the EQC during the interim -- the second year of the biennium it must be given before EQC closes business, disclosing the number of permits, number of applicants and the degree of emission sources that are being permitted-OTO. Motion carried unanimously by voice vote with **REP. MUSGROVE** voting for **REP. BUZZAS** by proxy.

SEN. HAWKS referred back to SB 143. He speculated that the \$2 million project would not be better off being decided by the Finance Committee as a whole than it would be if voted upon by the Joint Appropriations Natural Resources and Commerce Subcommittee. He expressed the need to know the details in order to make the best decision and he was not sure where the best place for that would be.

CHAIRMAN RIPLEY remarked that SEN. HAWKS' question was the very question which the Committee was wrestling with.

Ms. Smith added that one of the reasons why she had brought up the idea of waiting was because of the degree to which the Committee had been wrestling. She noted that by the time the bill transmitted to the floor and then to the other chamber they would know if it was still an issue.

{Tape: 2; Side: A; Approx. Time Counter: 19.8 - 29.2}

Motion/Vote: **REP. MUSGROVE** moved TO CLOSE the section on the DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION. Motion carried unanimously by voice vote with **REP. MUSGROVE** voting for **REP. BUZZAS** by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 29.2 - 32.2}

ADJOURNMENT

Adjournment: 10:30 A.M.

REP. RICK RIPLEY, Chairman

BRITT NELSON, Secretary

RR/bn

Additional Exhibits:

EXHIBIT ([jnh22aad0.TIF](#))